

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2006-006266  
CV 2004-004932

03/15/2007

HONORABLE RUTH H. HILLIARD

CLERK OF THE COURT  
L. Gilbert  
Deputy

GREG MCBRIDE, et al.

STEPHANIE MONROE WILSON

v.

PHILLIP JOSEPH PFEIFF

FREDERICK G GAMBLE

KIRK H HAYS  
DOCKET-CIVIL-CCC  
FILE ROOM-CSC

CASE CONSOLIDATION

9:18 a.m. In chambers: This is the time set for Oral Argument. Plaintiffs are represented by counsel, Stephanie Monroe Wilson and Calvin J. Platten, Jr. Defendant Philip Joseph Pfeiff (Pfeiff) is represented by counsel, Frederick G. Gamble. Defendant Jeff Foshee Concrete, Inc. (Foshee) is represented by counsel, Kirk H. Hayes.

Court reporter, Lisa Vitoff, is present.

Defendant Foshee withdraws his Motion for Stay.

Argument is presented.

IT IS ORDERED denying Defendant Foshee's Motion for Partial Dismissal (joined by Defendant Pfeiff).

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As to Defendant Pfeiff's Motion re: Plaintiffs' Preliminary Expert Affidavit, the Court finds that the Affidavit is adequate, upon Mr. Gamble's receipt of Mr. Tahoney's curriculum vitae, and nothing new needs to be added/provided.

Discussion is held re: consolidation of this matter with CV2004-004932.

The Court finds that it erred in its previous denial of Plaintiffs' Motion to Consolidate as the claims in CV2006-006266 directly impact the claims in CV2004-004932. Therefore,

IT IS ORDERED consolidating cause numbers CV2004-004932 and CV2006-006266 under cause number CV2004-004932 for all further proceedings.

IT IS FURTHER ORDERED affirming the trial date of **April 16, 2007**.

IT IS FURTHER ORDERED counsel/parties are directed to meet and confer regarding exhibits so that duplicates are avoided. **\*\*Trial lawyers or their knowledgeable assistants must contact the clerk of this division at 602-506-3348, no later than one week prior to the due date for exhibits, regarding the proper procedures for submitting exhibits to be marked for trial.\*\*** Exhibits **must** be delivered to the clerk of this division no later than **April 2, 2007**.

Discussion is held regarding expert testimony as it relates to Plaintiffs' experts Dan Smith in CV2004-004932 and Scott Tahoney in CV2006-006266.

Defendants object to Plaintiffs' use of both experts and further discussion is held as to whether or not Mr. Smith can rely on Mr. Tahoney's affidavit in forming his opinions and testimony which would then limit Plaintiffs to using Mr. Smith as their expert witness.

Ms. Wilson shall contact Mr. Smith regarding same and the Court will hold a Telephonic Status Conference re: this issue on **March 16, 2007 at 9:15 a.m.** Counsel for Plaintiffs will initiate the call.

In light of the consolidation of CV2004-004932 and CV2006-006266, the issues related to Defendants Controverting Certificates to Plaintiffs' Motion to Set and Certificate of Readiness re: Arbitration Issue are deemed moot.

10:00 a.m. Matter concludes.